



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

April 25, 2007

SUBJECT: **2007-0305 – Ashwini Kumar** [Applicant] **Lawrence Oakmead Center LLC** [Owner]: Application located at **544 Lawrence Expressway** (near Titan Wy) in an M-S/POA (Industrial & Service/Place of Assembly) Zoning District.

Motion **Use Permit** on a 3.05-acre site to allow on-site sale of beer and wine within an existing restaurant.

REPORT IN BRIEF

Existing Site Conditions Commercial center

Surrounding Land Uses

North Fast food restaurant

South Commercial center (across Titan Way)

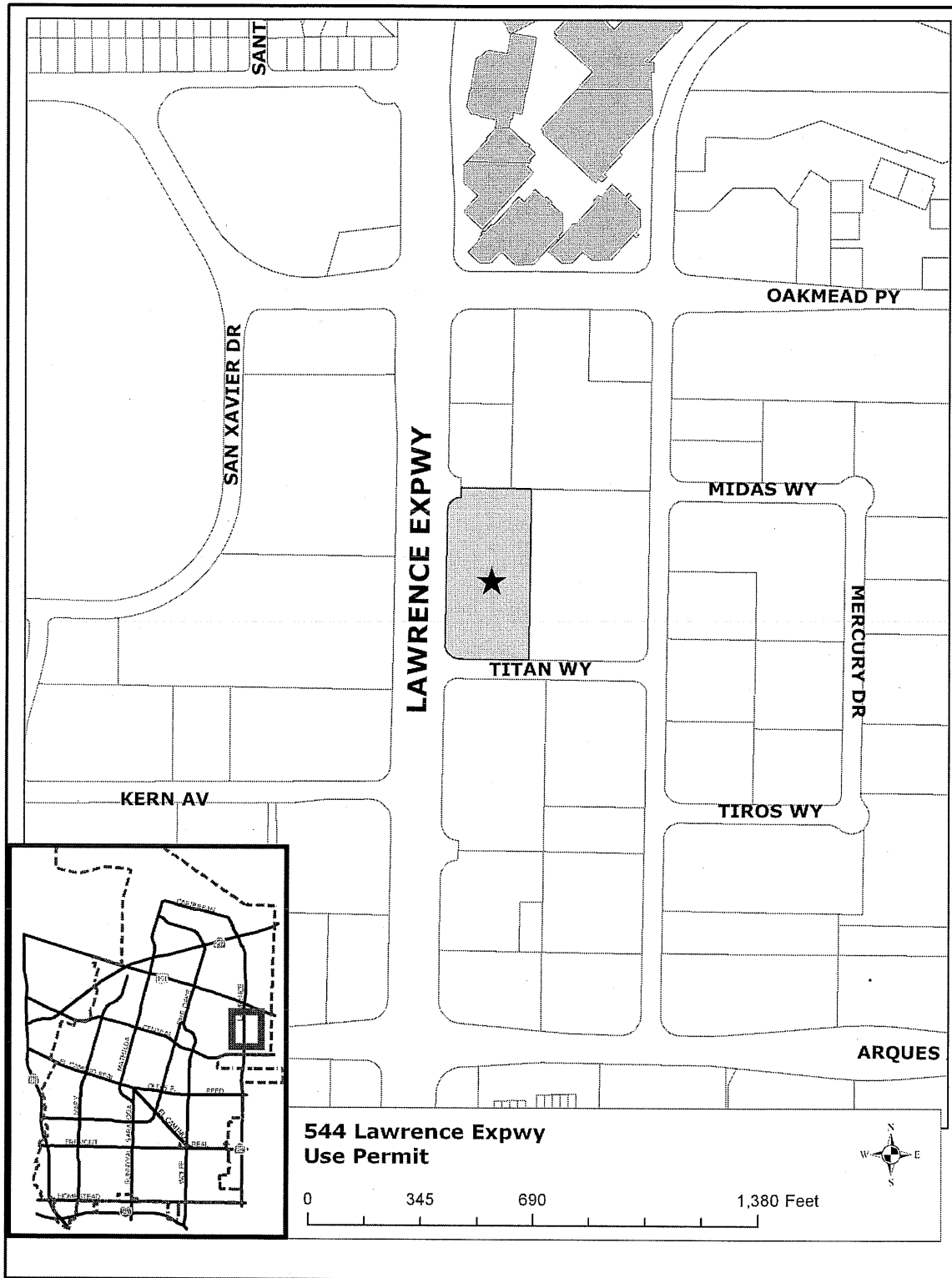
East Industrial

West Industrial (across Lawrence Expressway)

Issues Public safety, parking

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approval with conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial	Same	Industrial
Zoning District	MS – Industrial and Service	Same	MS – Industrial and Service
Lot Size (s.f.)	132,858 s.f.	Same	22,500 s.f. min.
Gross Floor Area (s.f.)	24,000 s.f.	Same	59,786 s.f. max.
Gross Floor Area of Tenant	4,615 s.f.	Same	No max.
Lot Coverage (%)	18%	Same	45% max.
Floor Area Ratio (FAR)	18%	Same	35% max. without PC review
Parking			
Total Spaces	195 (Currently 193, but 2 spaces will be gained due to re-striping by Togo's)	Same	195 min.
Standard Spaces	187	Same	171 min.
Compact Spaces/ % of Total	17 spaces / 8.6% (None currently, but re-striping will be performed by Togo's to gain 2 spaces)	Same	10% max.
Accessible Spaces	6	Same	6 min.

ANALYSIS**Description of Proposed Project**

The project proposes to add beer and wine service during meals at the existing Madhuban Indian Restaurant (formerly Masala Oven Restaurant). The proposed project includes the addition of a small bar/beverage station with 6 bar seats. Beer and wine will be served primarily at dining tables with meal service. However, patrons may be served beer and wine at the bar while waiting for a table.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2006-0952	Use Permit to allow an additional restaurant (Togo's)	Planning Commission / Approved	11/27/2006
2003-0945	Use Permit to allow a fitness facility	Administrative Hearing / Approved	01/08/2004
2003-0897	Use Permit to allow on-site sale of alcohol in an existing computer services business	Administrative Hearing / Approved	01/13/2004
2003-0030	Miscellaneous Plan Permit to allow a computer services business with a snack bar	Staff Review / Approved	01/30/2003
1992-0266	Miscellaneous Plan Permit to allow outdoor seating at an existing restaurant (Sarovar)	Staff Review / Approved	11/23/1992
1990-0011	Miscellaneous Plan Permit to develop a parking plan	Staff Review / Approved	05/30/1990
1979-0067	Use Permit to develop a commercial center	Planning Commission / Approved	11/26/1979

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include applications involving existing facilities.

Use Permit

Site Layout: The existing restaurant is located at 544 Lawrence Expressway in the Lawrence Oakmead Center. Lawrence Oakmead Center is located on the east side of Lawrence Expressway between Oakmead Parkway and Titan Way. The 24,000 square foot center includes 9 separate tenant spaces. Madhuban

Restaurant occupies space 544, which is located toward the middle of the shopping center (see Site Plan, Attachment C).

Address	Tenant	Floor Area (sq. ft.)
540	Vacant	1,600
540	Togo's (under construction)	2,400
542	Curves Fitness	2,950
544	Madhuban Indian Restaurant	4,615
544-1	Vacant	800
546-1	House of Bagels	900
546-2	Fast Signs	2,700
546-3	Digital Guru	3,635
548-1	2 Chez Vietnamese Restaurant	2,200
548-2	Una Mas Taqueria	2,200

Existing Use: The current uses and hours of operation for this site are:

- Meal service from 11:00 a.m. to 10:30 p.m., Sunday through Thursday;
- Meal service from 11:00 a.m. to 11:30 p.m., Friday and Saturday.

Proposed Use: In addition to the uses described above, the applicant proposes to serve beer and wine during all permitted hours of operation. The applicant is proposing to add a bar/beverage station for preparation of alcoholic and non-alcoholic beverages. Beer and wine service will occur at existing tables along with meal service, as well as at the proposed bar. The proposed project does not include any live entertainment or outdoor dining.

Public Safety: Staff review includes input from the Department of Public Safety on the proposed addition of beer and wine service on-site. Public Safety noted that the applicants must comply with all requirements of the Department of Alcoholic Beverage Control (ABC), but did not have any other comments about the proposed project.

Parking/Circulation: The subject site currently has a total of 193 existing parking spaces, 6 of which meet ADA standards for accessibility. The existing spaces are of standard size; there are no compact spaces on-site. However, a Use Permit was recently approved to allow a Togo's Restaurant to operate in space #540 (Use Permit #2006-0952). To meet the parking requirement for this additional restaurant, the Conditions of Approval require Togo's to re-stripe the parking lot to gain 2 additional parking spaces. The result of this re-striping will be a total of 195 spaces, 17 of which will be compact spaces. The number of ADA accessible spaces will not be affected by the re-striping.

Lawrence Oakmead Center currently has five existing restaurants (including Togo's, which is currently under construction). These restaurants have various parking requirements. Sunnyvale Municipal Code establishes different parking standards for the following types of restaurants:

Restaurant Type	Parking Standard
Restaurants with 100% fixed seating	1 space per every 2 fixed seats, plus 1 space per 400 square feet of other area
Restaurants without fixed seating or bars	1 space per 110 square feet
Restaurants with bars and fast food restaurants	1 space per 75 square feet

The existing Masala Oven Indian Restaurant is classified as a “restaurant without fixed seating or bars” and therefore requires a total of 42 parking spaces. The existing parking requirements for Lawrence Oakmead Center are as follows:

Parking Analysis: 540-548 Lawrence Expressway					
Address	Tenant	Type	Sq. Ft.	Parking Requirement (per sq. ft.)	Required Spaces
540	Vacant	General office	1,600	1 per 180	8.9
540	Togo's (Proposed)	Fast food restaurant	2,400	1 per 75	32
542	Curves	Fitness	2,950	1 per 200	14.8
544	Madhuban	General restaurant (without fixed seating)	4,615	1 per 110	41.9
544-1	Vacant	General office	800	1 per 180	4.4
546-1	House of Bagels	Fast food restaurant	900	1 per 75	12
546-2	Fast Signs	General retail	2,700	1 per 200	13.5
546-3	Digital Guru	General retail	3,635	1 per 200	18.2
548-1	2 Chez	General restaurant (without fixed seating)	2,200	1 per 110	20
548-2	Una Mas	Fast food restaurant	2,200	1 per 75	29.3
Total			24,000		195
Existing spaces					195

As shown above, the total number of spaces required for the proposed uses in the center is 195 spaces (6 of which must be accessible per ADA standards). After completion of the re-stripping project for Togo's restaurant, the parking lot will have a total of 195 spaces.

Staff finds that the proposed project is not likely to result in increased parking demand. As noted above, “restaurants with bars” typically require 1 parking space per 75 square feet of floor area. However, staff believes this parking ratio is intended to apply to restaurants with large, detached bar areas where meal

service may become incidental to the service of alcohol. The Municipal Code defines a bar as “a business establishment which has, as its primary business, the sale of alcoholic beverages for consumption on the premises and where, if food is served, it is incidental to the sale of beverages, comprising no more than twenty-five percent of total sales” (SMC 19.12.030). The proposed project will include a small bar within the existing restaurant which will serve as a beverage station for preparation of beverages for table service. The proposed bar will have 6 seats where patrons may order and consume beverages; however, the service of beer and wine at the bar will remain incidental to the restaurant’s meal service. As a result, staff finds that the beverage station proposed for Madhuban Restaurant does not meet the Municipal Code’s definition of a “bar” and therefore the parking ratio for “restaurants with bars” should not apply. The existing on-site parking is sufficient to meet the requirement for a general restaurant (1 space per 110 square feet).

Solid Waste Disposal: The subject site has two existing trash enclosures located in the rear parking lot area. These enclosures include solid waste bins, recycling bins, and tallow bins for use by restaurants on-site. Staff found these enclosures and bins to be in poor condition. Loose debris is currently being stored in the trash enclosures, while solid waste bins are stored outside the enclosures in adjacent parking spaces. Enclosure gates are left open and bins are stored with their lids open, creating unattractive and unsanitary conditions. Furthermore, the storage of waste bins in parking spaces further reduces the amount of available parking on-site. To address these conditions, staff is recommending Conditions of Approval #3A through #3D, which require waste containers to be stored fully within the enclosures with their lids closed.

Compliance with Development Standards/Guidelines: The proposed project complies with all applicable development standards and guidelines. As noted above, staff finds the existing on-site parking is sufficient to meet code requirements. The existing solid waste disposal facilities do not meet current standards; however, staff recommends Conditions of Approval #3A-3D to improve the condition of these facilities and bring them into conformance with code.

Expected Impact on the Surroundings: The proposed project to serve beer and wine at an existing restaurant will not have a negative impact on the site or surrounding uses. As conditioned, the project would be required to obtain an additional Use Permit for any possible future addition of live entertainment. There is currently only one other restaurant serving beer and wine in the existing shopping center (2Chez Vietnamese Restaurant).

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 17 notices mailed to property owners and residents adjacent to the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's web site• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• Posted on the City of Sunnyvale's web site

Staff has not received any public comments regarding this application.

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Use Permit. Recommended Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Use Permit with the attached Conditions of Approval.
2. Approve the Use Permit with modified Conditions of Approval.
3. Deny the Use Permit.

Recommendation

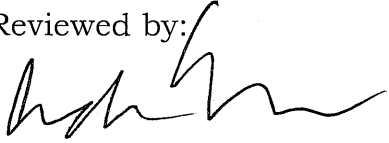
Alternative 1

Prepared by:



Mariya Hodge
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Justifications Provided by the Applicant
- E. Photographs of the Subject Site

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element

Policy C4.1 – Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.

Land Use and Transportation Element

Policy N1.7- Support the location of convenient retail and commercial services (e.g. restaurants and hotels) in industrial areas to support businesses, their customers, and their employees.

Land Use and Transportation Element

Action Statement N1.1.1 – Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. The proposed addition of beer and wine service at the existing restaurant meets all development standards for the site. Beer and wine service will allow the restaurant to provide additional services to its patrons without causing negative impacts on surrounding uses or properties.
2. The proposed project will ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. The proposed use is not likely to involve significant public safety problems, noise, or other negative impacts. As a result, service of beer and wine in conjunction with meals will not impair the development or use of surrounding properties.

Recommended Conditions of Approval - Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. The project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development. Major plan modifications or expansion of the proposed use shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing.
- B. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- C. The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- D. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.

2. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Obtain Building permits as required for all tenant improvements related to this use.
- B. Obtain a license for beer and wine service from the Alcoholic Beverage Control (ABC) Department and comply with all ABC license requirements. Failure to comply with all ABC requirements is grounds for revoking this permit.
- C. Comply with the conditions of all previously approved permits for the subject site, including but not limited to restrictions on color, materials, and signage.

3. RECYCLING AND SOLID WASTE

- A. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.

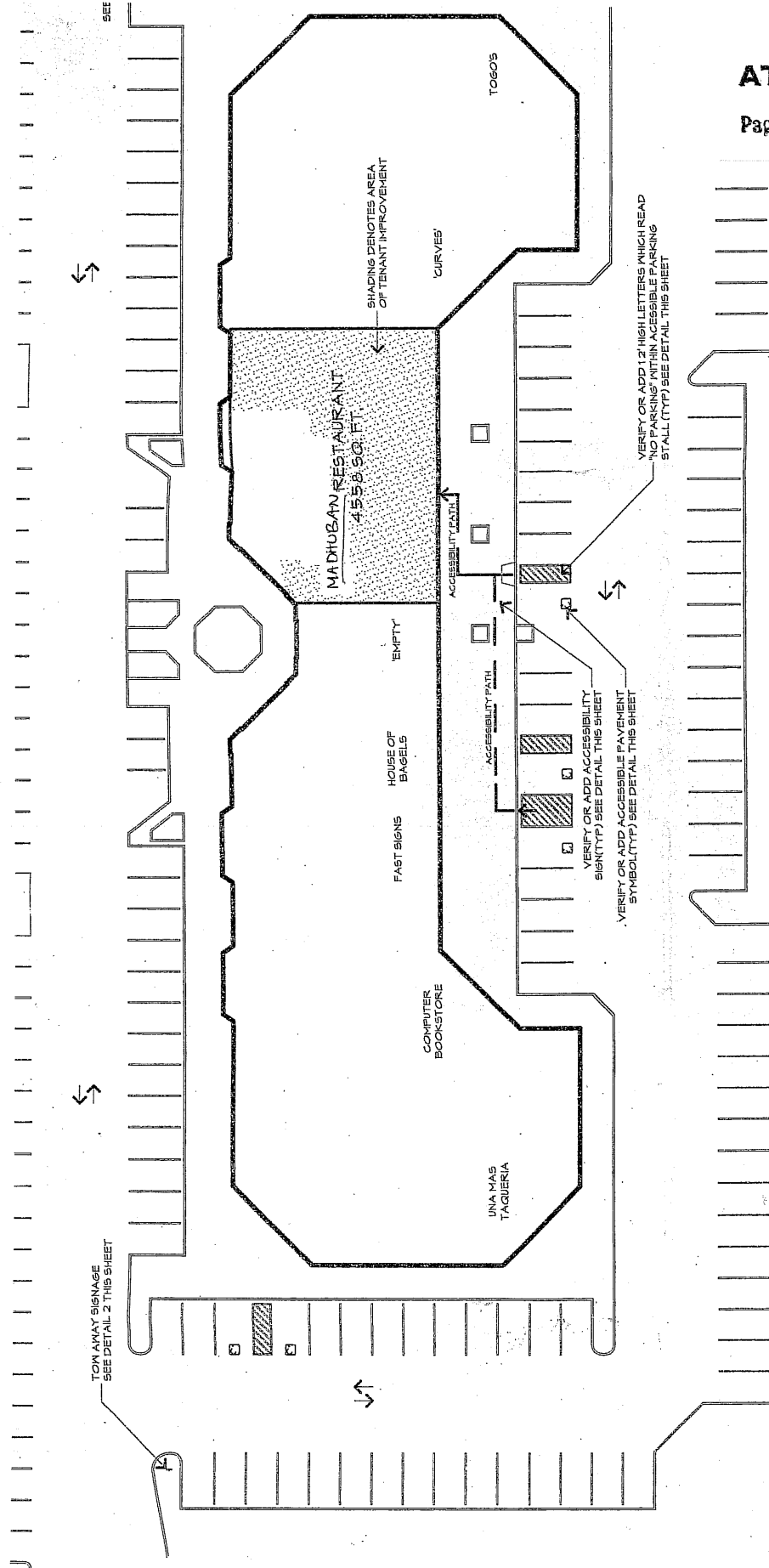
- B. Waste containers, including tallow bins and recycling bins, shall be stored with their lids closed.
- C. Waste containers shall be stored completely within enclosures with the enclosure gates closed. Containers shall not be placed in parking spaces or landscaped areas at any time.
- D. All exterior waste enclosures shall be maintained in a clean and sanitary manner. Loose debris shall not be stored in the enclosures at any time.

4. MISCELLANEOUS

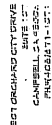
- A. Outdoor seating is not permitted as part of this use. Any proposed outdoor seating shall require approval of a Miscellaneous Plan Permit by the Director of Community Development.
- B. Live entertainment is not permitted as part of this use. Any proposed live entertainment use shall require approval of a new Use Permit at a public hearing.

Attachment C

Site and Architectural Plans



LAWRENCE EXPRESSWAY

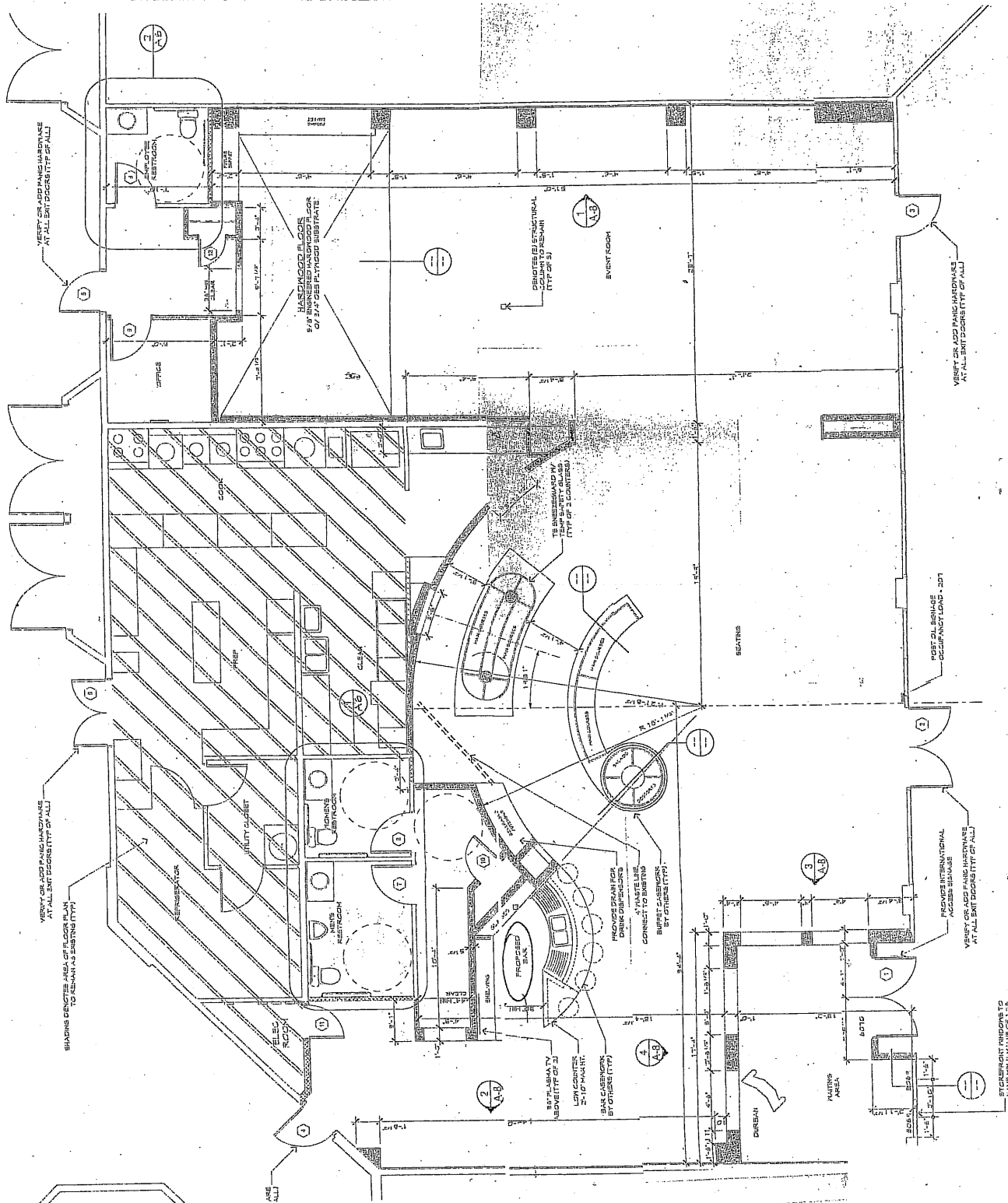


The plans, ideas and design of the drawing are the property of the designer. I will not allow the contract plans and not be in whole or in part, for any part for which they were not intended without the written permission of the designer.

REVISION	

MADHUBAN
INDIAN CUISINE
544 Lawrence Express
5807b 4th Avenue

ATTACHMENT C
Page 2 of 2



PROPOSED FLOOR PLAN
1/4" = 1'-0"

Attachment D

Justifications Provided by the Applicant

USE PERMIT JUSTIFICATIONS

The Municipal Code states that at least one of the following two justifications must be met before granting the Use Permit. Illustrating how your project meets at least one of the below criteria will assist the City in reviewing your proposal. Use this sheet or a separate sheet of paper to show how the proposed use:

- 1) attains the objectives and purposes of the General Plan of the City of Sunnyvale,

This application for a Use Permit to serve beer & wine @ our restaurant is simply to enhance our customers dining experience. Our "Bar" is small and will be the source for all of our beverages.

It is our goal to better serve the citizens & visitors of Sunnyvale with a high quality establishment. An Indian Restaurant, Masala Oven was the predecessor

- or --
2) is desirable and not materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the zoning district.

to our new restaurant. For many years this restaurant had served both the local business' for lunch and the local community for dinners. Granting us this new Use Permit request will only enhance an existing Use by enabling us to expand our service to the customer.

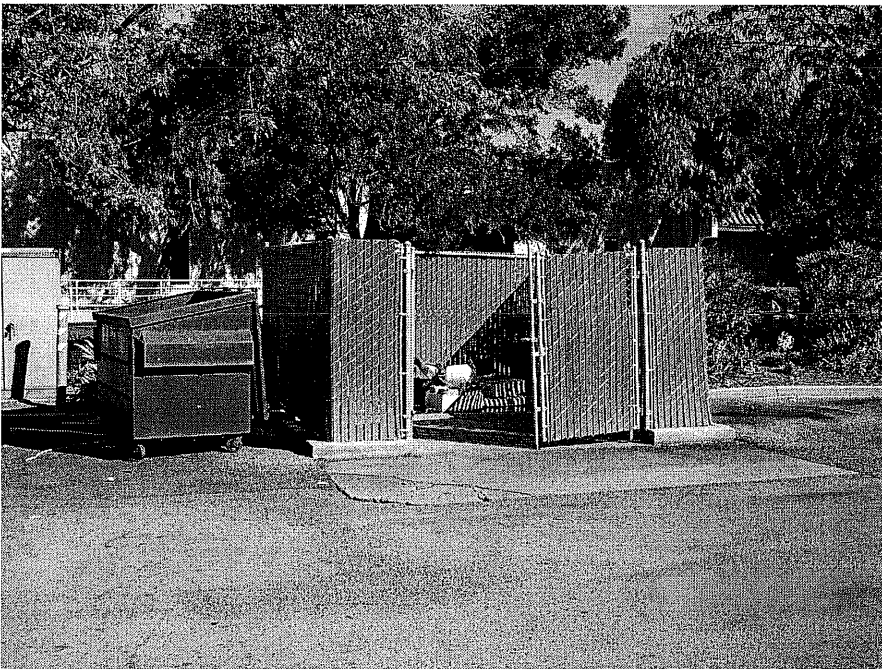
If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

Attachment E

Photographs of the Subject Site



Photograph showing the subject tenant space (#544) in Lawrence Oakmead Center.



Photograph of one of two trash enclosures located in the rear of the shopping center. The enclosure is filled with debris, and waste containers are being stored in the adjacent parking spaces.